
HOUSE BILL 2605

State of Washington

57th Legislature

2002 Regular Session

By Representatives O'Brien, Morell, Jackley and Lovick

Read first time 01/22/2002. Referred to Committee on Criminal Justice & Corrections.

1 AN ACT Relating to aggregating value for purposes of determining
2 the degree of theft; and amending RCW 9A.56.010.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 9A.56.010 and 1999 c 143 s 36 are each amended to read
5 as follows:

6 The following definitions are applicable in this chapter unless the
7 context otherwise requires:

8 (1) "Access device" means any card, plate, code, account number, or
9 other means of account access that can be used alone or in conjunction
10 with another access device to obtain money, goods, services, or
11 anything else of value, or that can be used to initiate a transfer of
12 funds, other than a transfer originated solely by paper instrument;

13 (2) "Appropriate lost or misdelivered property or services" means
14 obtaining or exerting control over the property or services of another
15 which the actor knows to have been lost or mislaid, or to have been
16 delivered under a mistake as to identity of the recipient or as to the
17 nature or amount of the property;

18 (3) "Beverage crate" means a plastic or metal box-like container
19 used by a manufacturer or distributor in the transportation or

1 distribution of individually packaged beverages to retail outlets, and
2 affixed with language stating "property of," "owned by
3," or other markings or words identifying ownership;

4 (4) "By color or aid of deception" means that the deception
5 operated to bring about the obtaining of the property or services; it
6 is not necessary that deception be the sole means of obtaining the
7 property or services;

8 (5) "Deception" occurs when an actor knowingly:

9 (a) Creates or confirms another's false impression which the actor
10 knows to be false; or

11 (b) Fails to correct another's impression which the actor
12 previously has created or confirmed; or

13 (c) Prevents another from acquiring information material to the
14 disposition of the property involved; or

15 (d) Transfers or encumbers property without disclosing a lien,
16 adverse claim, or other legal impediment to the enjoyment of the
17 property, whether that impediment is or is not valid, or is or is not
18 a matter of official record; or

19 (e) Promises performance which the actor does not intend to perform
20 or knows will not be performed.

21 (6) "Deprive" in addition to its common meaning means to make
22 unauthorized use or an unauthorized copy of records, information, data,
23 trade secrets, or computer programs;

24 (7) "Merchandise pallet" means a wood or plastic carrier designed
25 and manufactured as an item on which products can be placed before or
26 during transport to retail outlets, manufacturers, or contractors, and
27 affixed with language stating "property of," "owned by," or
28 other markings or words identifying ownership;

29 (8) "Obtain control over" in addition to its common meaning, means:

30 (a) In relation to property, to bring about a transfer or purported
31 transfer to the obtainer or another of a legally recognized interest in
32 the property; or

33 (b) In relation to labor or service, to secure performance thereof
34 for the benefits of the obtainer or another;

35 (9) "Owner" means a person, other than the actor, who has
36 possession of or any other interest in the property or services
37 involved, and without whose consent the actor has no authority to exert
38 control over the property or services;

1 (10) "Parking area" means a parking lot or other property provided
2 by retailers for use by a customer for parking an automobile or other
3 vehicle;

4 (11) "Receive" includes, but is not limited to, acquiring title,
5 possession, control, or a security interest, or any other interest in
6 the property;

7 (12) "Services" includes, but is not limited to, labor,
8 professional services, transportation services, electronic computer
9 services, the supplying of hotel accommodations, restaurant services,
10 entertainment, the supplying of equipment for use, and the supplying of
11 commodities of a public utility nature such as gas, electricity, steam,
12 and water;

13 (13) "Shopping cart" means a basket mounted on wheels or similar
14 container generally used in a retail establishment by a customer for
15 the purpose of transporting goods of any kind;

16 (14) "Stolen" means obtained by theft, robbery, or extortion;

17 (15) "Subscription television service" means cable or encrypted
18 video and related audio and data services intended for viewing on a
19 home television by authorized members of the public only, who have
20 agreed to pay a fee for the service. Subscription services include but
21 are not limited to those video services presently delivered by coaxial
22 cable, fiber optic cable, terrestrial microwave, television broadcast,
23 and satellite transmission;

24 (16) "Telecommunication device" means (a) any type of instrument,
25 device, machine, or equipment that is capable of transmitting or
26 receiving telephonic or electronic communications; or (b) any part of
27 such an instrument, device, machine, or equipment, or any computer
28 circuit, computer chip, electronic mechanism, or other component, that
29 is capable of facilitating the transmission or reception of telephonic
30 or electronic communications;

31 (17) "Telecommunication service" includes any service other than
32 subscription television service provided for a charge or compensation
33 to facilitate the transmission, transfer, or reception of a telephonic
34 communication or an electronic communication;

35 (18) Value. (a) "Value" means the market value of the property or
36 services at the time and in the approximate area of the criminal act.

37 (b) Whether or not they have been issued or delivered, written
38 instruments, except those having a readily ascertained market value,
39 shall be evaluated as follows:

1 (i) The value of an instrument constituting an evidence of debt,
2 such as a check, draft, or promissory note, shall be deemed the amount
3 due or collectible thereon or thereby, that figure ordinarily being the
4 face amount of the indebtedness less any portion thereof which has been
5 satisfied;

6 (ii) The value of a ticket or equivalent instrument which evidences
7 a right to receive transportation, entertainment, or other service
8 shall be deemed the price stated thereon, if any; and if no price is
9 stated thereon, the value shall be deemed the price of such ticket or
10 equivalent instrument which the issuer charged the general public;

11 (iii) The value of any other instrument that creates, releases,
12 discharges, or otherwise affects any valuable legal right, privilege,
13 or obligation shall be deemed the greatest amount of economic loss
14 which the owner of the instrument might reasonably suffer by virtue of
15 the loss of the instrument.

16 (c) Whenever any series of transactions which constitute theft,
17 would, when considered separately, constitute theft in the third degree
18 because of value, and said series of transactions are a part of a
19 criminal episode or a common scheme or plan, then the transactions may
20 be aggregated in one count and the sum of the value of all said
21 transactions shall be the value considered in determining the degree of
22 theft involved.

23 For purposes of this subsection, "criminal episode" means a series
24 of thefts committed by the same person from one or more mercantile
25 establishments on three or more occasions within a five-day period.

26 (d) Whenever any person is charged with possessing stolen property
27 and such person has unlawfully in his possession at the same time the
28 stolen property of more than one person, then the stolen property
29 possessed may be aggregated in one count and the sum of the value of
30 all said stolen property shall be the value considered in determining
31 the degree of theft involved.

32 (e) Property or services having value that cannot be ascertained
33 pursuant to the standards set forth above shall be deemed to be of a
34 value not exceeding two hundred and fifty dollars;

35 (19) "Wrongfully obtains" or "exerts unauthorized control" means:

36 (a) To take the property or services of another;

37 (b) Having any property or services in one's possession, custody or
38 control as bailee, factor, lessee, pledgee, renter, servant, attorney,
39 agent, employee, trustee, executor, administrator, guardian, or officer

1 of any person, estate, association, or corporation, or as a public
2 officer, or person authorized by agreement or competent authority to
3 take or hold such possession, custody, or control, to secrete,
4 withhold, or appropriate the same to his or her own use or to the use
5 of any person other than the true owner or person entitled thereto; or
6 (c) Having any property or services in one's possession, custody,
7 or control as partner, to secrete, withhold, or appropriate the same to
8 his or her use or to the use of any person other than the true owner or
9 person entitled thereto, where the use is unauthorized by the
10 partnership agreement.

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